

REMARKS

Applicant is filing this Amendment and Response in reply to the Official Action dated October 28, 2008. Applicant submits that the Amendment and Response is fully responsive to the Official Action based at least upon the reasons set forth herein.

At the onset, Applicant notes that all of the pending claims have been amended. Notably, the phrase “transmission line” in each claim has been replaced with “transmission path”. Additionally, the preamble for claims 21-24 has been amended to recite a computer program storage device, readable by machine, tangibly embodying a program of instructions executable by a machine.

Claims 4, 8, 9 and 24 have been amended to recite, *inter alia*, monitoring a wireless reception status. Claims 5, 10 and 30 have been amended for consistency. No new matter has been added to the application by way of the aforementioned amendments.

In the Official Action, claims 4, 5, 8, 9, 10, 24, 26 and 30 were objected to because of minor informalities. Applicant submits that the amendments to these claims obviate the objection.

Additionally, the Examiner objected to claim 26 asserting that the claim is unclear whether that claim is in dependent or independent form. Applicant respectfully disagrees. Applicant submits that the claim is clear. Claim 26 as currently presented depends on claim 25. Withdrawal of the objections is respectfully requested.

Additionally, claims 4, 8, 9 and 24 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant submits that the amendments to these

claims obviate the rejection. Withdrawal of the rejection is respectfully requested.

Claims 21- 24 were rejected under 35 U.S.C. § 101 because they recite a program causing a computer to perform functions and are not tangibly embodied or stored on a computer readable medium. Applicant submits that the amendments to these claims obviate the rejection.

Withdrawal of the rejection is respectfully requested.

Claims 1, 3, 6, 21, 23, 25 and 26 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,586,088 issued to Mitsuru Kondo (hereinafter “Kondo”).

Applicant respectfully disagrees with the rejection and traverses with at least the following analysis.

Applicant submits that the reference fails to teach each and every limitation of the claims. Notably, claim 1, as currently presented recites a transmission device comprising, *inter alia*, a control unit for controlling said encoder unit to change a **compression rate** thereof and output the stream, when a control signal is received from said transmission line. Claims 3, 6, 25 and 26 recite similar devices and Claims 21 and 23 recite similar computer products.

The section identified in the Official Action fails to support the position set forth in the Official Action. In fact, Kondo merely teaches a facsimile transceiver which employs a modified Huffman encoding scheme to “stop encoding operation or inserts fill bits, thereby increasing the transmission rate” (Col. 2, lines 61-65). The compression rate is not the same as the transmission rate. Notably, Kondo describes a plurality of equations for defining various parameters in the device, such as processing time for the transmitter and receiver, decoding time, decoding rate, etc. However, none of these equations define the compression (encode) rate of the encoder or suggest that the compression rate (encoding rate) is variable.

Hence, Kondo fails to suggest or teach changing a compression rate when a control signal is received from a transmission line as recited in claims 1, 3, 6, 21, 23, 25 and 26.

Accordingly, claims 1, 3, 6, 21, 23, 25 and 26 are patentable over the cited reference.

Claims 2 and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,330,278 issued to Masters et al (“Masters”). Applicant respectfully disagrees with the rejection and traverses with at least the following analysis.

Claim 2 as currently presented recites a transmission device comprising, *inter alia*, an output control unit for receiving the stream output from said encoder unit, said output control unit performing control, when a control signal is received from a transmission line, to output the stream to the transmission line at a time interval different from a time interval at which the medium signal has been encoded by said encoder unit.

The Official Action asserts that the delay between transferring the data from the encoder to the modulator reads on the time interval difference. Applicant respectfully disagrees. The delay the Official Action references is an inherently circuit delay. The delay is the same for any transmission in the circuit. Rather, the claimed invention is directed to a variable time interval. The time interval can be changed based upon received control signal. In other words, the transmission of the encoded data is read out from a buffer at a different time interval or rate, e.g. a different clock.

At best, Masters suggests using a different level of modulation based upon a feed back signal. Col. 5, lines 50-57.

Accordingly, Masters fails to teach all of the limitations of the claims.

Claims 4-5 were rejected under 35 U.S.C. § 102(b) as being anticipated by EP 1182875 Horiuchi et al (hereinafter “Horiuchi”).

Applicant respectfully disagrees with the rejection and traverses with at least the following analysis.

Horiuchi fails to indicate a handover status as recited in amended Claim 4 or a handover from a current wireless area to an adjacent area as recited in amended Claim 5.

In contrast, Horiuchi simply detects a field intensity of three relays (Col. 18, lines 50-53).

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable Kondo and Masters. Applicant respectfully disagrees with the rejection based at least upon the reasoning as set forth above. The cited combination fails to teach or suggest the claimed time interval different from a time interval at which the medium signal has been encoded, as recited in claim 7.

Claims 8 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kondo in view of Horiuchi. Applicant respectfully disagrees with the rejection based at least upon the reasoning as set forth above. The cited combination fails to teach or suggest changing a compression rate, as recited in claim 8 and 10. Additionally, the cited combination fails to teach monitoring a wireless reception status such as a hand over.

Claims 9 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Masters in view of Horiuchi. Applicant respectfully disagrees with the rejection based at least upon the reasoning as set forth above. The cited combination fails to teach or suggest the claimed time interval different from a time interval at which the medium signal has been encoded and the claimed monitoring a wireless reception status such as a hand over, as recited in claim 9 and 30.

Applicant presumes that since there are no art based rejections for claim 24, claim 24 has allowable subject matter and would be allowed if rewritten to overcome the 101 and 112 rejections.

Based upon the foregoing, Applicant respectfully requests the Examiner to withdraw the rejections of claims 1-6, 21-23, 25, and 26 pursuant to 35 U.S.C. § 102. Additionally, Applicants respectfully request the Examiner to withdraw the rejection of claims 7-10 and 30 pursuant to 35 U.S.C. § 103(a).

In conclusion, Applicant believes that the above-identified application is in condition for allowance and henceforth respectfully solicits the Examiner to allow the application. If the Examiner believes a telephone conference might expedite the allowance of this application, Applicant respectfully requests that the Examiner call the undersigned, at the following telephone number: (516) 742-4343.

Respectfully submitted,



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